

Serial No. 10/614,362
Reply dated November 30, 2004
Reply to Office Action dated June 3, 2004

Remarks

Claims 1 to 37 were pending. By this Amendment, claims 1 to 37 were amended. No new matter has been added thereby. Accordingly, entry of the Amendment is respectfully requested. Claims 1 to 37, as amended, are now pending.

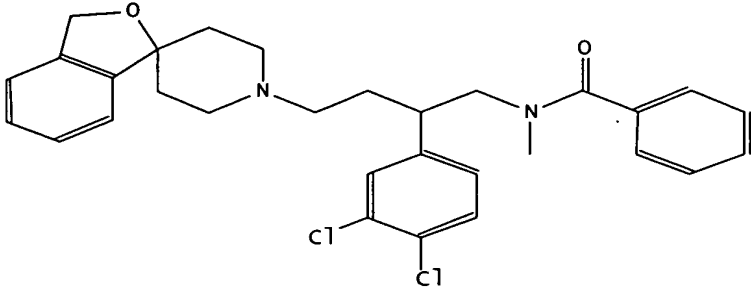
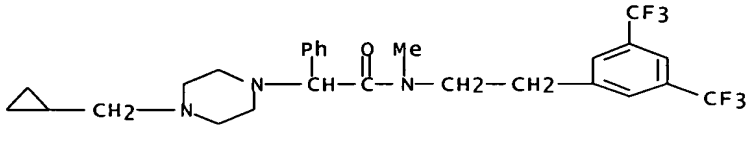
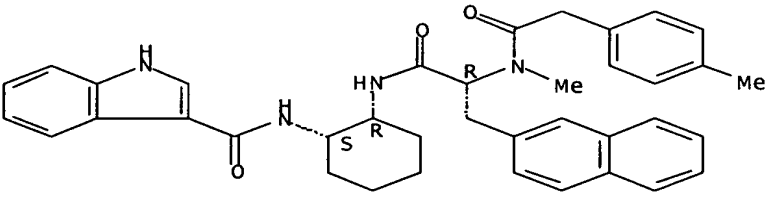
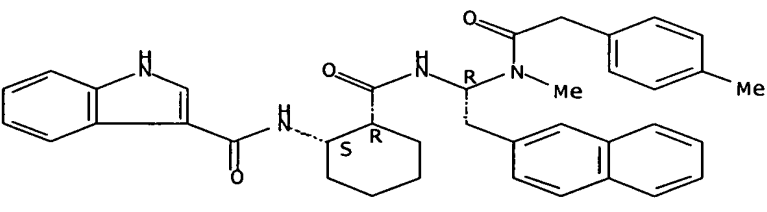
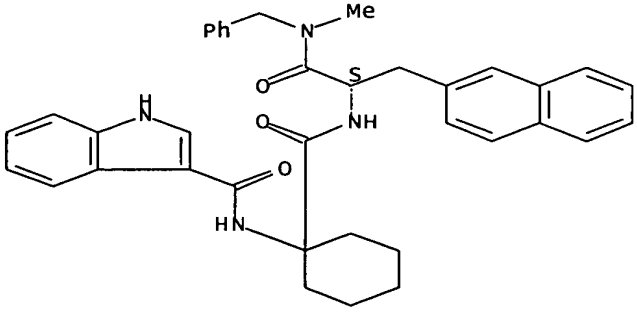
In the Notice of Non-Compliant Amendment dated November 22, 2004, the Office noted that the proper status identifiers were not used in the prior Amendment. Accordingly, applicants have resubmitted the claims with the improper status identifier "presently amended" changed to the proper status identifier "currently amended".

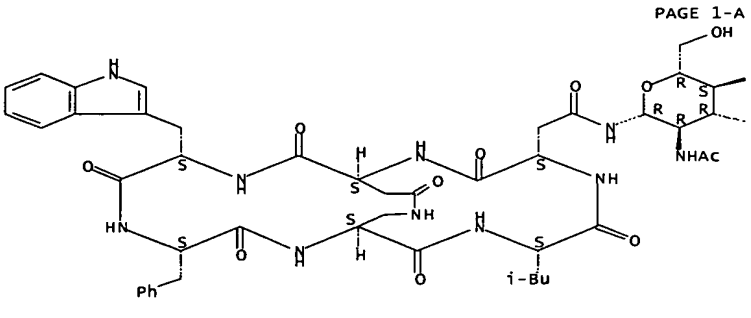
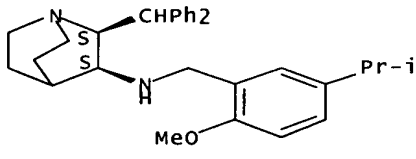
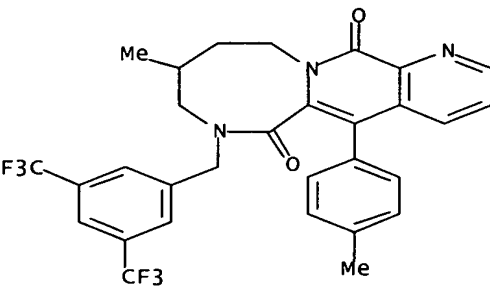
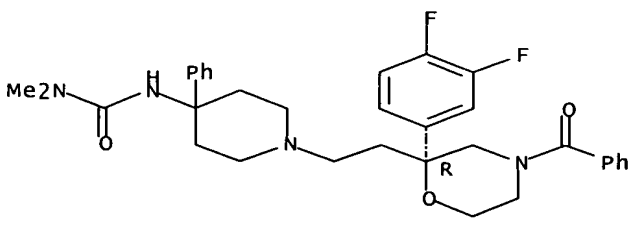
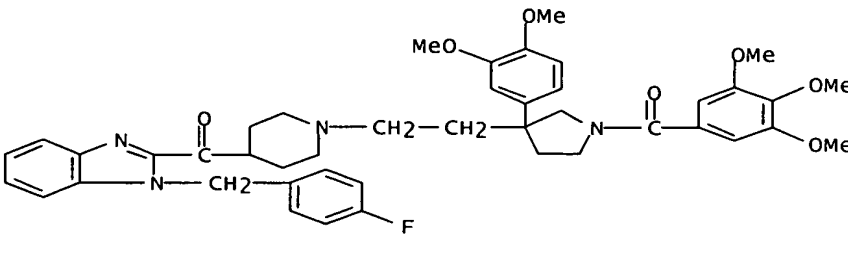
The Examiner rejected claims 1 to 37 under 35 U.S.C. § 112, first and second paragraphs, for various alleged specified reasons in the office action.

In response, applicants have amended the claims and maintain that such amendments generally render the Examiner's rejections moot. Applicants traverse some rejections, however, as follows. With regard to as to claim 32, applicants maintain that such recitation is sufficiently clear, but would be willing to designate the two inhalers by a term, such as "the Weston *et al.* nebulizer" and "the RESPIMAT nebulizer" instead. With regard to claim 35, applicants point out that the terms treating or preventing need not involve a cure of such conditions, but merely show a reasonable likelihood of alleviating some condition associated with inflammatory or respiratory diseases, which is likely given the biological activity of the compounds.

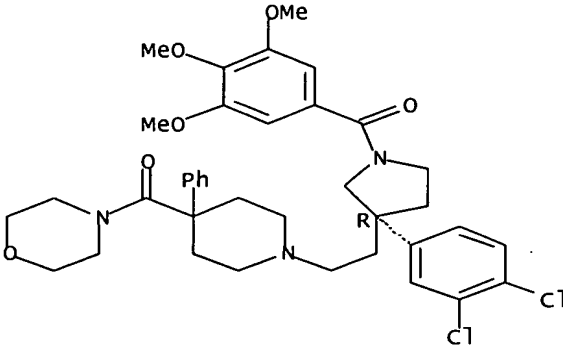
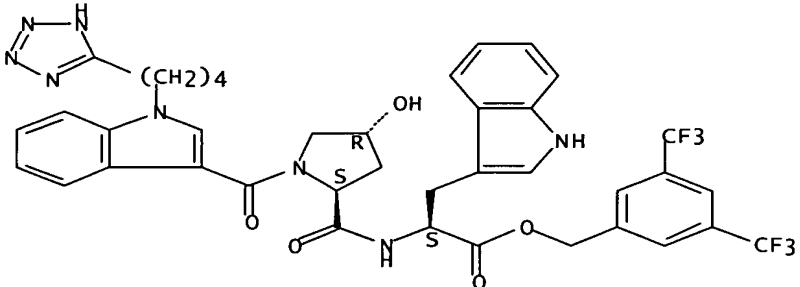
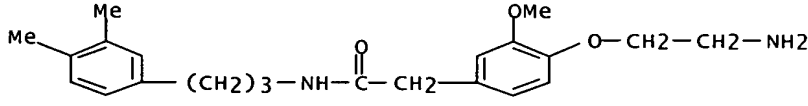
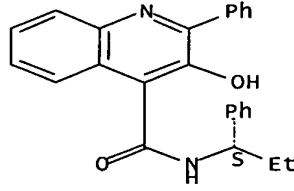
The Examiner also requested the structures of the compounds listed in claim 4.

In response, applicants herewith provide the following structures.

Compound No.	Structure
YM-35375	
BIIF 1149	
MEN-11467	
MEN-11149	
MEN-10930	

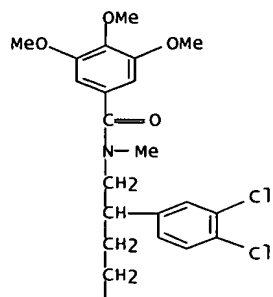
MEN-11420	<p>PAGE 1-A</p> 
CJ-11974	
TAK-637	
SR 144190	
MDL-103896	

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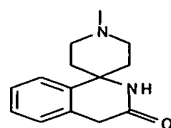
MDL-105172A	 <p>● HCl</p>
S 19752	 <p>● K</p>
DA-5018	 <p>● HCl</p>
SB 223412	

YM-44778

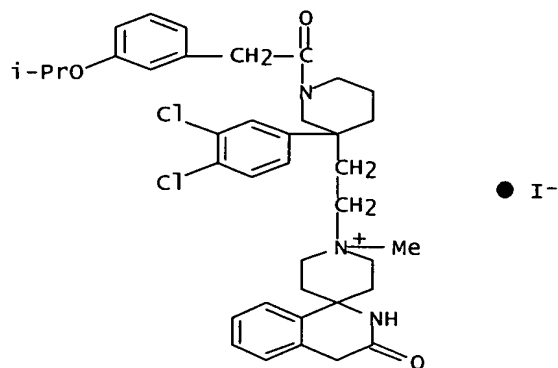
PAGE 1-A



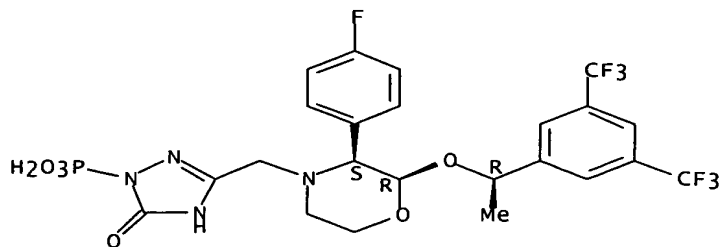
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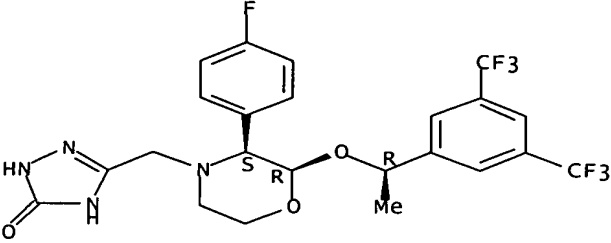
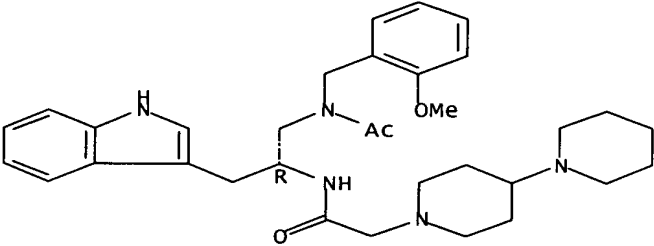
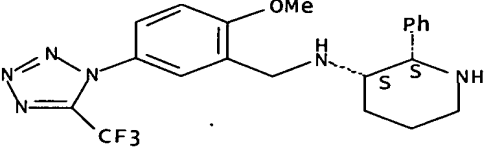
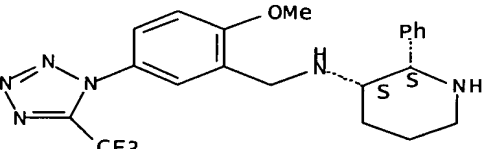
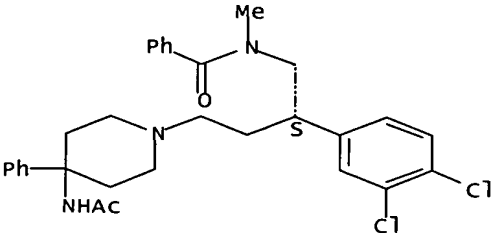


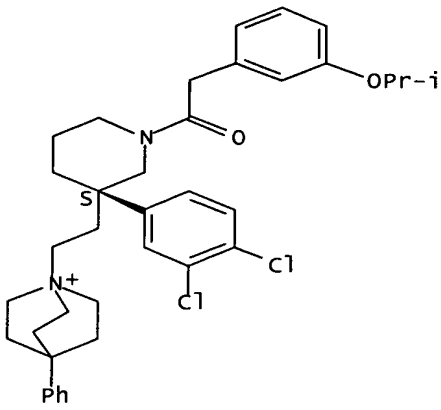
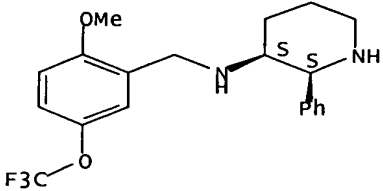
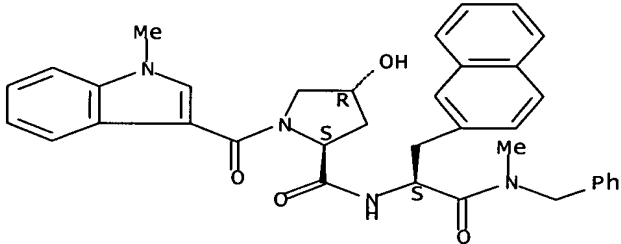
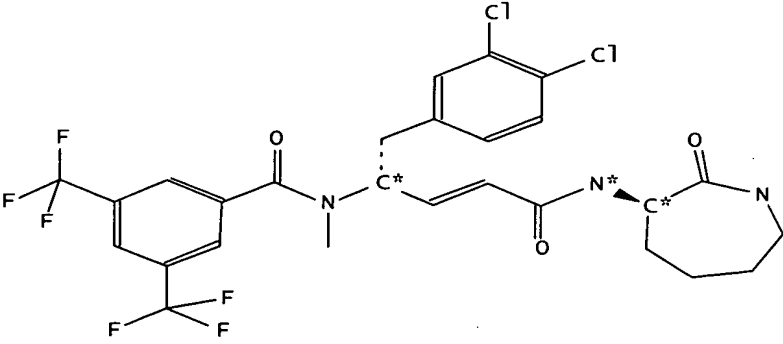
YM-49244

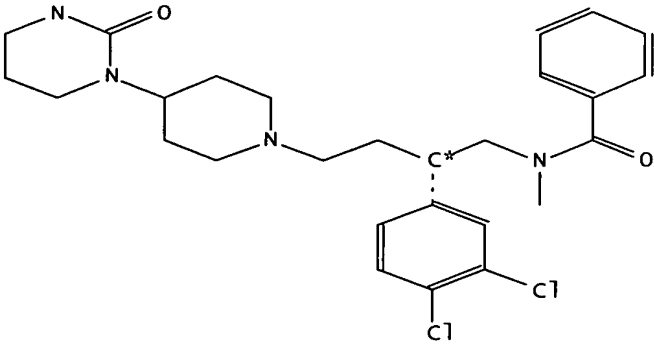
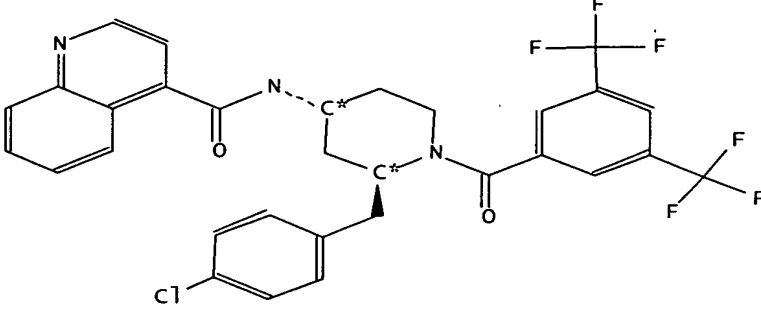


L 758298



L 754030 = MK 869	
LY 303870	
GR 205171	
GR 205171A	 <p style="text-align: center;">• 2 HCl</p>
SR 48968	

SR 140333	
CP 122721	
FK 888	
DNK-333 = DNK333A	

ZM-274773	
NKP 608 = CGP 60829 = NKP 608C	

The Examiner rejected claims 1 to 37 under the judicially-created doctrine of obviousness-type double patenting over claims 1 to 18 of Pairet *et al.*, U.S. Patent No. 6,455,524 in view of Banholzer *et al.*, USSN 10/391,735.

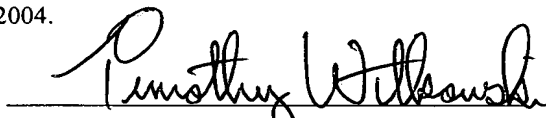
In response, applicants traverse the rejection and contend that it is improper. The Examiner has conceded that Pairet *et al.* does not disclose or claim the instant anticholinergics and has not explained the motivation to combine the references or why there would be a reasonable expectation of success in making such a modification to Pairet *et al.* as required for a proper *prima facie* case of obviousness. Accordingly, applicants respectfully request that the Examiner reconsider and withdraw the rejection.

Applicants submit that all the pending claims are allowable and respectfully solicit a Notice of Allowance for all of the pending claims. If the Examiner feels that a telephone interview

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would be helpful in advancing prosecution of this application, the Examiner is invited to contact the attorney below.

Certificate of Mailing Under 37 C.F.R. § 1.8(a)
I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on November 30, 2004.

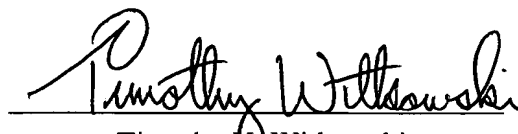


Timothy X. Witkowski
Registration No. 40,232

11-30-2004

Dated

Respectfully submitted,



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Attorney for Applicants

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